

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 31 and 33-68 are pending. Claims 31 and 62 are amended to correct obvious inadvertent errors. Specifically, claim 31 is amended for proper antecedent basis, and claim 62 is amended for proper dependency. Entry of these changes is in order as they raise no issues that would require further consideration and/or search, nor do the amendments affect substantive matters. The amendments to claims 31 and 62 were not made previously because Applicants did not realize the problems existed.

Applicants traverse the rejection of claims 31 and 33-68 under 35 U.S.C. §102(e) as being anticipated by Aho et al. (U.S. Patent No. 6,198,941).

With regard to independent claim 31, Aho et al. does not disclose an apparatus for transferring data from a network to a mobile device having a transmitter arrangement for notifying the mobile device of data awaiting transfer thereto from the network via a first lower bandwidth and for transferring the data awaiting transfer to the mobile device via a wide bandwidth.

The Office Action contends these limitations read on the GSM base station 170 and WAVELAN base station 171 of Aho et al., which transfer data from Internet 175 to mobile device 101. While GSM

base station 170 and WAVELAN base station 171 are, respectively, high bandwidth (i.e., wide) and low bandwidth (i.e., narrow) devices, Aho et al. never states that WAVELAN base station 171 is arranged so as to notify mobile device 101 of data awaiting transfer from Internet 175.

The Office Action alleges that the foregoing feature is disclosed in Aho et al. at column 2, lines 35-40, and column 6, lines 31-42. However, the first cited passage actually refers to communications from a portable communication device to a remote host or server and indicates that a change in the communication arrangement used by the portable communication device is anticipated or predicted. Hence, this portion of Aho et al. pertains to communication from the mobile device to the network, not vice versa.

The second cited passage relates to communications from portable device 101 to network 175. According to column 6, lines 31-35, FIG. 4 shows the process of FIG. 3, while column 5, lines 19-40, make clear that FIG. 3 depicts a process concerning communications from device 101, which includes processor 110.

Nothing in the relied-on portions of Aho et al. indicate that either portable device 101 or base station 171 includes a transmitter arrangement arranged for notifying any device of data awaiting transfer from one device to another via a low bandwidth.

The rejection of independent claim 33 is incorrect at least because Aho et al. does not disclose notifying the mobile device 101 of data awaiting transfer to it from Internet 175 by transmitting a first signal from low bandwidth WAVELAN base station 171. Nor does Aho et al. disclose then transferring the data awaiting a transfer from high bandwidth GSM base station 170 to mobile device 101.

The Office Action incorrectly says that column 2, lines 31-43, and column 6, lines 31-42, disclose the step of notifying mobile device 101 that data is awaiting transfer from Internet 175 by transmitting a first signal from the Internet to mobile device 101 via low bandwidth WAVELAN base station 171. Applicants refer to the preceding discussion of column 2, lines 31-43, and column 6, lines 31-42, in connection with the rejection of the claim 31.

The Office Action also wrongly contends that column 6, line 43, through column 7, line 12, of Aho et al. discloses then transferring data in Internet 175 awaiting transfer to portable device 101 by transmitting a signal from high bandwidth GSM base station 170 to mobile device 101. In fact, this passage discusses the process of FIG. 4. As previously pointed out in connection with the rejection of claim 31, FIG. 4 is concerned with operations occurring in the transmitting signals from mobile device 101 to stations 170 and 171 and Internet 175, not vice

versa. Nowhere in connection with mobile device 101 or stations 170 or 171 does Aho et al. include the temporal limitation "then transferring the data." Aho et al., the only temporal relationship disclosed in Aho et al. relates to an initial transmission of a wide bandwidth signal from device 101 to base station 170 and then transmission of a narrow bandwidth signal from the mobile device 101 to WAVELAN base station 171. See, for example, column, 3, lines 7-9.

Claim 48 differs from Aho et al. by requiring a message to be transferred from a first communications network to a mobile device via a first narrow bandwidth link, wherein the message indicates that data are desired to be transferred to the device. Claim 48 also distinguishes over Aho et al. by requiring the data to be transferred to the device from a second network via a second wide bandwidth link. Contrary to the assertion in the Office Action, column 2, lines 31-43, and column 6, lines 31-42, of Aho et al. do not disclose transferring a message indicating that data are desired to be transferred to mobile device 101 from network 175 via low bandwidth WAVELAN base station 171. As previously noted, these portions of Aho et al. are concerned with transferring a message from device 101 to network 175, not vice versa.

The Office Action also erroneously states that column 6, line 43, through column 7, line 12, of Aho et al. discloses

transferring data from network 175 to mobile device 101 via high bandwidth GSM base station 170. Again, this portion of Aho et al. is concerned with transmission of data from mobile device 101 to network 175, not vice versa. Further, Aho et al. does not teach or suggest the temporal relationship recited in Applicants' claim 48, which requires "then transferring the data to the device from the second network via the second link" having a wide bandwidth.

Independent claim 52 also distinguishes over Aho et al. by requiring the mobile device to notify the network of data awaiting transfer thereto by transmitting a first signal from the device to the network via a first link having a narrower bandwidth than a second link. Claim 52 includes the requirement of then transferring the data from the mobile device to the network by transmitting a second signal from the device to the network via the second link, which has a wider bandwidth than the first link.

The Office Action erroneously states that column 2, lines 31-34, and column 6, lines 31-42, disclose the requirement that mobile device 101 notifies network 175 of data awaiting transfer from the mobile device to the network by transmitting a first signal from mobile device 101 to network 175 via the narrow bandwidth first link. Actually, these sections of Aho et al. provide no information whatsoever about the nature of the

bandwidth of the link between the portable communication device and a remote host or server.

Applicants also respectfully disagree with the contention in the Office Action that column 6, line 43, through column 7, line 12, of Aho et al. discloses transferring data from mobile device 101 to network 175 by transmitting a second signal from the mobile device to the network via a link from device 101 to high bandwidth GSM base station 170 after the mobile station has notified low bandwidth WAVELAN base station 171 that data is awaiting transfer to network 175. In fact, this portion of Aho et al. indicates that a narrow bandwidth signal is transmitted from mobile device 101 after a wide bandwidth signal has been transmitted from mobile device 101 to the Internet 175.

In this regard, during step 407, a comparison is made of the value of $U_1(A_1)$ to $U_2(A_1)$ against a threshold, where $U_1(A_1)$ represents a measure of the overall effectiveness or value of the application A_1 when the application is used in the first communications arrangement, and $U_2(A_1)$ represents a measure of the effectiveness or value of the application when the application is used in the second communications arrangement. If it is determined that the effectiveness of the selected application changes significantly when the device transitions from the first communications environment to the second communications environment, the communication environment is changed.

The only suggestion in Aho et al. on this point is that there is a strong likelihood that a change in the communication channel between a laptop and a remote host or server is imminent. Such a change may lead to a corresponding transition from a high bandwidth to a low bandwidth transmission channel. See column 3, lines 4-13. Further, column 3, lines 14-29, indicates there is a reduction in bandwidth based upon observed operational changes in communication characteristics, such as jitter, noise distortion, and the like.

Not only does Aho et al. fail to disclose the mentioned limitations of claim 52, the reference actually proceeds in exactly the opposite direction, by narrowing bandwidth. While Aho et al. may go from a narrow bandwidth to a wide bandwidth, there is nothing in Aho et al. to indicate that mobile device 101 notifies network 175 via the narrow bandwidth link that data is awaiting transfer to the network 175 via a wide bandwidth link.

Claim 53 distinguishes over Aho et al. by requiring a data transfer system having a first transmitter adapted to transmit a first narrow bandwidth signal to a mobile device via a first narrow bandwidth link, wherein the first signal indicates data on the network are available to be transferred to the mobile device. Claim 53 also differs from Aho et al. by requiring a second transmitter adapted to transmit to the mobile device via a second

wide bandwidth link, a second wide bandwidth signal including the data.

The Office Action erroneously says that column 2, lines 31-43, and column 6, lines 31-42, of Aho et al. disclose a low bandwidth WAVELAN base station 171 adapted to transmit a first signal indicating data on a network 175 are available to be transferred to mobile device 101. As previously pointed out, these portions of Aho et al. concern a transmission from mobile device 101 to stations 170, 171 and Internet 175.

The Office Action also erroneously says column 6, line 43, through column 7, line 12, discloses a high bandwidth GSM base station 170 transmitting to mobile device 101 a second wide bandwidth signal including the data on the network available to be transferred to the mobile device. As discussed, the referenced portion of Aho et al. is directed to a transmission from mobile device 101 to stations 170 and 171 and Internet 175.

Claim 63 distinguishes over Aho et al. by requiring a first arrangement to send a first narrow bandwidth signal that indicates the first arrangement is ready to transmit data to a second arrangement. Claim 63 further distinguishes over Aho et al. by requiring the first arrangement to then send a second wide bandwidth signal to the second arrangement via a second link, wherein the second signal includes the data.

The Office Action inaccurately charges that column 2, lines 31-43, and column 6, lines 31-42, disclose that mobile device 101 transmits a first signal indicating that mobile device 101 is ready to transmit data to Internet 175, wherein the first signal is transmitted via a narrow bandwidth link. Applicants again point out that the link from mobile device 101 to narrow bandwidth WAVELAN base station 171 is only disclosed in Aho et al. as occurring after there has been a communication from mobile device 101 to Internet 175 via the wide bandwidth link including high bandwidth GSM base station 170.

Claim 65 distinguishes over Aho et al. by requiring a mobile telecommunications device that includes a control processor capable of operating a program to enable the mobile telecommunications device to receive an incoming long-range narrow bandwidth telecommunications signal indicative in the presence of data being available elsewhere at a wide bandwidth telecommunications station and to inform a user of the device that there are data to be collected from a remote wide bandwidth station. In addition, the processor is capable of scheduling receipt of the data to be transmitted.

The Office Action incorrectly alleges that column 2, lines 31-43, and column 6, lines 31-42, of Aho et al. disclose that mobile device 101 has a control processor capable of operating a program to enable mobile device 101 to receive an incoming long-

range narrow bandwidth telecommunications signal indicative of the presence of data being available elsewhere at a wide bandwidth telecommunications signal station. In fact, the foregoing portions of Aho et al. are concerned with transmissions from mobile device 101 and do not discuss enabling mobile device 101 to receive an incoming long-range narrow bandwidth telecommunications signal.

The Office Action also incorrectly alleges that Aho et al. (column 2, lines 31-43; column 6, lines 31-42; and column 6, line 43, through column 7, line 12) discloses that mobile device 101 informs a user of the device that there are data to be collected from high bandwidth GSM base station 170 and that the mobile device is capable of scheduling receipt of the data to be transmitted to network 175. The aforementioned portions of Aho et al. are concerned with transmission from mobile device 101, rather than the operations alluded to in the last three lines of page 3 of the Office Action.

The dependent claims are not anticipated by Aho et al. because they include all the limitations of the independent claims, which Applicants have shown are not found in Aho et al. In addition, these dependent claims include many features not found in Aho et al. For example, claim 34 requires scheduling the transfer of data from the network to the mobile device. The Office Action says the features of these claims are disclosed by

Aho et al. at column 2, lines 44-63, and column 6, line 43, through column 7, line 12. However, these portions of Aho et al. are not concerned with scheduling of data from Internet 175. Rather, these portions are concerned with operations of mobile device 101. Claim 35-37 depend on claim 34 and are thus allowable with claim 34.

Aho et al. does not disclose scheduling. In Aho et al., there is a decrease of bandwidth on an *ad hoc* basis, for example, because the GSM network is used out-of-doors or based upon observed operational changes such as jitter, noise distortion, and the like. See column 3, lines 1-22. The portions of Aho et al. alleged in the Office Action to disclose scheduling the transfer of the data never mention scheduling.

If the Examiner is relying on inherency in this regard, the Examiner has not met the burden of establishing a *prima facie* case of inherency. The fact that a certain result or characteristic **may** occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981). To establish inherency, extrinsic evidence must make clear that the missing descriptive matter is **necessarily** present in the thing described in the reference and that it would

be so recognized by persons of ordinary skill in the art. Inherency may not be established by possibilities or probabilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. *In re Roberston*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999). In relying upon a theory of inherency, the Examiner must provide a basis in fact or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (B.P.A.I. 1990).

It has not been shown by rationale or evidence that Aho et al. discloses the scheduling set forth in claims 34-37, 47, and 64.

The Office Action is incorrect in alleging that Aho et al. discloses at column 6, line 43, through column 7, line 12, the requirement of Applicants' claim 44 for data to be transferred to the mobile device from the second network via another wide bandwidth link after the mobile device has been notified via the narrow bandwidth link that it is to receive data from the second network. As already discussed, the relied-on portion of Aho et al. is concerned with operations relating to communications from mobile station 101. Hence, Aho et al. does not anticipate the claim 44 requirement to transfer data to the mobile device.

The Office Action is also mistaken in contending that Aho et al. (at column 5, line 45, through column 6, line 11, and column 6, line 43, through column 7, line 12) discloses the requirement of claim 45 for a decryption key to be transferred from the network to the mobile device and then the data to be transferred in encrypted form based on the key from the network to the mobile device via the second wide bandwidth communications link. The relied-on portions of Aho et al. address operations associated with transmitting information from mobile device 101. They do not discuss transferring anything from Internet 175 to mobile device 101. Further, there appears to be no disclosure regarding transferring a decryption key or transferring data in encrypted form based on the key in the relied-on portions of Aho et al.

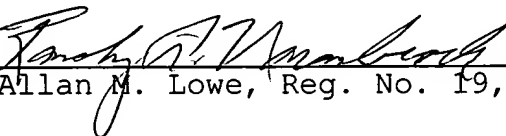
In view of the foregoing amendments and remarks, favorable reconsideration and allowance are deemed in order and are respectfully requested.

Applicants hereby request a one-month extension of time in which to file this response. Authorization for payment of the \$110 fee is attached. If in error, the Commissioner is hereby authorized to charge any omitted fees, including application

processing, extension of time, and extra claims fees, to Deposit
Account No. 07-1337.

Respectfully submitted,

LOWE HAUPTMAN GILMAN & BERNER, LLP

By: 
Allan M. Lowe, Reg. No. 19,641

1700 Diagonal Road, Suite 300
Alexandria, VA 22314
703-684-1111 telephone
703-518-5499 telecopier
AML:rk